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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,219	09/26/2003	Andreas Krueger	P03,0343	2897

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SCHIFF HARDIN, LLP
PATENT DEPARTMENT
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EXAMINER

NICOLAS, FREDERICK C

ART UNIT PAPER NUMBER

3754

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,219

Applicant(s)

KRUEGER, ANDREAS

Examiner

Frederick C. Nicolas

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 3, 5, 6 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/9/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, Figures 1-2, claims 1-2,4,7-12 in the reply filed on 1/17/2006 is acknowledged. The traversal is on the ground(s) that the only difference between the embodiment of Figures 1 and 2 and the embodiment of Figure 3 is a spherical actuator and a tapering actuator. This is not found persuasive because the two species of claimed invention are clearly not related in terms of their modes of operation. For example, in the elected species of Figures 1 and 2, a spherical actuator is required. On the other hand, in the species of Figure 3, a tapering actuator is required. Clearly, there exist unrelated features among the species of claimed invention, which will require a separate search area for each species.

The requirement is still deemed proper and is therefore made FINAL.

Specification

2. The disclosure is objected to because of the following informalities: on page 7, line 17, "piston 111" should be --piston 11--.

Appropriate correction is required.

3. Claims 3,5-6,13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 1/17/2006.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2,4,7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Neil 3,291,128.

O'Neil discloses a cartridge (10) for a fluid which comprises a cylindrical tank (12) having an opening adapted to admit and discharge fluid relative to the tank (col. 1, ll. 9-26), the tank having a first longitudinal section (16) and a second longitudinal section (22) adjoining the first longitudinal section a piston (42) movable in a longitudinal direction toward and away from the opening to pump a fluid through the opening into or out of the tank, a connection element (43) adapted to engage an actuator (14) for moving the piston in the longitudinal direction, the connection element being adapted to mechanically interact with the actuation element to produce a positive fit therewith, the connection element being movable back and forth between the first and second longitudinal sections of the tank and the connection element being forced to interact with the actuator to produce the positive fit when the connection element is in the second longitudinal section and automatically releasing the connection element is in the first longitudinal section (col. 2, ll. 6-54), a connection bushing as seen in Figure 2, the actuator comprises a connection plunger (38), wherein the connection bushing and the connection plunger interacting with each other to produce the positive fit when the

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connection element is in the second longitudinal section (col. 2, ll. 25-36 and as seen in Figure 2), the tank has an open end as seen in Figure 1, wherein the first longitudinal section conically (20) expands toward the open end, the connection element has a spherically-shaped receptacle and a spherically-shaped free end as seen in Figure 2.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Meyer 5,499,751, Baidwan et al. 5,238,003, Kopfer 4,185,628, Baldwin et al. 3,986,645, Baldwin et al. 3,967,759, Pechmann 3,253,592, Creighton, Jr. et al. 3,323,682, Bruning 4,869,403, Sarstedt 4,057,050, Haber et al. 4,890,627 and Urbaniak 4,673,396 disclose other types of cartridge for a fluid.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar, can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN

March 2, 2006



3/2/06

Frederick G. Nicolas
Primary Examiner
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